

## BUREAU OF LAW

## MEMORANDUM

*Corp. Tax Determinations*  
*A-2*  
*Coleco Industries, Inc.*

TO: Commissioners Murphy, Palestin and Macduff  
FROM: Mr. Kelliher  
SUBJECT: COLECO INDUSTRIES, INC.

Section 181  
Article 9 of the Tax Law

The proposed determination in this case, prepared by the hearing officer, is submitted herewith.

The question involved is the amount of license fee due by a foreign corporation under Section 181 of the Tax Law. The license fee is computed upon total capitalization, with a significant increase in the fee in most cases where capitalization includes shares of no par value. The information with respect to capitalization must be submitted with the first annual report filed by the corporation. In this case the report showed capitalization based upon shares of \$1 par value. These shares were changed from no par value to par value \$1 on April 1, 1963, the date of the filing of the first annual report. The corporation began business in New York January 2, 1962, and completed its first year December 31, 1962.

The application for revision is denied on the ground that the fee is to be computed on the capitalization at the end of the first year and not on any change made before the time of the filing of the report. A Law Bureau opinion of July 11, 1950, a copy of which is annexed hereto, supports this interpretation. The proposed determination is approved.

The incidental modification in the amount of the license fee from \$25,722.90 to \$18,797.52 is based upon an amended CT-204 and does not affect the correctness of the determination.

Kindly return the file after it has served your purposes.

---

Assistant Director

VPM:rlp  
Enclosure  
May 13, 1965

BUREAU OF LAW

MEMORANDUM

TO:

FROM:

SUBJECT:

**STATE OF NEW YORK**

**THE STATE TAX COMMISSION**

---

**In the Matter of the Application**

**of**

**COLECO INDUSTRIES, INC.**

**For revision or refund of license  
fee assessed under Section 181 of  
Article 9 of the Tax Law.**

---

**Coleco Industries, Inc., the taxpayer herein, having filed application for revision or refund of license fee under Section 181 of Article 9 of the Tax Law, and a hearing having been held in connection therewith at the office of the State Tax Commission, in New York City on October 7, 1964, before William F. Sullivan, Senior Tax Administrative Supervisor of the Corporation Tax Bureau of the Department of Taxation and Finance, at which hearing Arnold Greenberg, secretary of the taxpayer, appeared personally and testified, together with Edward Handelman, Esq., of counsel, and the record having been duly examined and considered by the State Tax Commission,**

**It is hereby found:**

**(1) That the taxpayer was incorporated under the laws of Connecticut on June 30, 1961 and began business in New York State on January 2, 1962;**

**(2) That on the basis of a report filed and subsequent information furnished, a license fee was audited and stated as follows:**

Number of shares of no par value stock issued as of December 31, 1962	332,000
License fee allocation percentage	77.6657%
Number of shares allocated to New York	428,713
Tax at six cents per share	\$25,722.90

(3) That the license fee was audited and stated on June 3, 1964, and application for revision or refund was filed on July 8, 1964;

(4) That the amount of capital stock authorized in the original certificate of incorporation was 3,000 shares of common stock without par value; that on January 2, 1962 a certificate of merger was filed with the Secretary of the State of Connecticut showing the amount of authorized capital stock as 750,000 shares of common stock without par value; that on April 1, 1963 an amended and restated certificate of incorporation was filed with the Secretary of the State of Connecticut changing the amount of authorized capital stock to 750,000 shares of common stock of par value of \$1.00 per share;

(5) That Section 181 of the Tax Law reads, in part, as follows:

"X X X that the measure of X X X the amount of capital stock employed in this state by a corporation subject to tax under article nine-a of this chapter shall be that proportion of its capital stock which is equal to its business, investment and subsidiary capital allocable within the state pursuant to the provisions of said article, provided that the proportion of subsidiary and investment capital so allocable within the state shall be determined without regard to any minimum prescribed in said article.  
X X X X X."

(6) That Section 192.3 of the Tax Law reads as follows:

"Foreign corporations subject to license fee. Every foreign corporation subject to the license fee imposed by section one hundred eighty-one of this chapter shall include in the reports filed by it, pursuant to the provisions of articles nine or nine-a of this chapter, such information, in such form as the tax commission may prescribe, as may be necessary to enable the tax commission to determine the amount of its license fee, pursuant to the aforesaid section."

Upon the foregoing findings and upon all of the evidence presented, it is hereby

**HEHEHEHE:**

(A) That the taxpayer was required to compute the license fee under Section 181 of the Tax Law on the issued capital stock as of December 31, 1962 in the amount of 552,000 shares of no par value stock as shown on its franchise tax report filed under Article 9-A of the Tax Law for the calendar year 1962;

(B) That the license fee is recettled upon the proper proportion of the taxpayer's business and investment capital allocable within the state pursuant to the provisions of Sections 181 and 210 of the Tax Law, as follows:

Number of shares of no par value stock issued as of December 31, 1962	552,000
Corrected license fee allocation percentage	56.7358%
Number of shares allocated to New York	313,892
Tax at six cents per share	\$18,797.52

(C) That the resettled license fee does not include fees, taxes, or other charges which are not legally due.

Dated: Albany, New York

this 16th day of April 1965 THE STATE TAX COMMISSIONER

/s/

JOSEPH H. MURPHY

~~COMMISSIONER~~

*Handwritten signature*

~~COMMISSIONER~~

*Handwritten signature*

~~COMMISSIONER~~